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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

ANDRE HARDIMAN,  
  
Plaintiff,  
  
v.  
  
SCOTT DAVIS; et al.,  
  
Defendants.

Case No. 3:23-cv-00584-MMD-CLB

**ORDER GRANTING DEFENDANTS'  
MOTION FOR TWO-WEEK  
EXTENSION OF TIME TO FILE  
RESPONSE TO PLAINTIFF'S  
MOTION TO COMPEL DISCOVERY  
DUE TO PENDING MEET AND  
CONFER REQUEST BY  
DEFENDANTS  
(ECF NO. 24)**

**(First Request for Extension of Time)**

Defendants, Scott Davis, Tim Garrett, Kara Legrand, Donald Southworth, and Harold Wickham, by and through counsel, Aaron D. Ford, Attorney General for the State of Nevada, Chief Deputy Attorney General D. Randall Gilmer, and Jeffrey D. Whipple, Deputy Attorney General,<sup>1</sup> hereby move for a **two week extension of time** to file a

<sup>1</sup> Counsel of Record, DAG Jeffrey Whipple, is out of the office on emergency leave, and therefore CDAG, D. Randall Gilmer has drafted and filed this Motion on behalf of Defendants. It is anticipated DAG Whipple will remain counsel of record. As the circumstances surrounding the need for this leave are of a personal nature, should this Court believe additional information is necessary, it is requested that the information be provided *in camera*. **Ex. A at 2, ¶ 2.**

1 response to Plaintiff Andre Hardiman's (Hardiman) Motion to Compel filed on March 17,  
2 2025 (ECF No. 24). Should this extension be granted, Defendants' response will now be  
3 due on **Monday, April 14, 2025**.

#### 4 **I. INTRODUCTION**

5 Defendants have provided responses to all seven of Hardiman's Requests for  
6 Production of Documents. However, with regard to Request No. 1, Defendants objected to  
7 the request as being overly broad, vague, and unduly burdensome, but also informed  
8 Hardiman that to the extent documents could be identified, those documents would be  
9 provided as a supplement. Counsel of Record, Deputy Attorney General (DAG) Jeffrey  
10 Whipple, is currently on emergency leave, but it is expected to return to the office within  
11 the next several days. **Ex. A, Declaration of Chief Deputy Attorney General (CDAG),**  
12 **D. Randall Gilmer at 2, ¶ 2.**

13 Prior to his departure, DAG Whipple scheduled a phone conference for Wednesday,  
14 April 2, 2025 with Hardiman for the purpose of having a meet and confer relating to what,  
15 if any, documents could be provided in response to Hardiman's Request for Production No.  
16 1 that would be amenable to Hardiman. *Id.* at 2, ¶ 6. Due to the scheduling of that meet  
17 and confer phone conference, which will be held regardless of whether DAG Whipple has  
18 returned (with CDAG Gilmer participating in his absence if necessary), Defendants request  
19 a two-week extension to file the response to Hardiman's motion as Defendants are hopeful  
20 that the phone call will result in a resolution of this issue without this Court's intervention.  
21 *Id.* at 2-3, ¶¶ 7-10.

22 In addition, the request is being sought due to DAG Whipple's current leave, as  
23 Defendants wish to ensure any substantive response is accurate in all respects, which,  
24 given the nature of DAG Whipple's current leave, the undersigned is unable to ensure at  
25 this time. *Id.* at 2, ¶ 7.

#### 26 **II. STATEMENT OF FACTS**

27 Hardiman sent Requests for Production of Documents to all Defendants on or about  
28 November 11, 2024. On February 21, 2025, Hardiman filed a motion to compel regarding

1 those responses, ECF No. 21, which this Court noted was mooted on March 14, 2025, ECF  
2 No. 23, as Defendants noted in their opposition to the motion to compel that those responses  
3 had been provided on January 31, 2025 and March 5, 2025. ECF No. 22 at 2:9-1. Hardiman  
4 did not file any reply following the opposition being filed, and therefore, this Court issued  
5 an order denying the motion to compel as moot, as it “appear[ed] there is no longer a dispute  
6 between the parties as to discovery. ECF No. 23 at 1:17-23.

7 In bringing the first motion to compel, Hardiman failed to provide this Court with a  
8 copy of the disputed discovery request. Instead, within the body of the motion the purported  
9 language of six of the seven responses. ECF No. 21 at 1:24-2:22. However, a review of the  
10 discovery responses, particularly as to Request for Production No. 1, establishes that  
11 Hardiman did not accurately reference the discovery sought, as the discovery request,  
12 **Exhibit B at 1:25-26**, sought “[a]ll unit movement logs from April of 2022 to June of 2024,”  
13 whereas the documents sought to be compelled in the first motion to compel for Request  
14 No. 1 seeks “LCC’s unit movement long via N.O.T.I.S. (Nevada Offender Tracking  
15 Information System) from April of 2022 to June of 2024.” ECF No. 21 at 1:24-26. Similarly,  
16 now, Hardiman has reframed this question a third time to seek “[a]ll of LCC’s yard  
17 movement via NOTIS (Nevada Offender Tracking Information System) from April of 2022  
18 to June of 2023.” ECF No. 24 at 1:25-27, 2:9-12.

19 While Defendants admittedly did not provide any documentation in response to  
20 Hardiman’s Request for Production No. 1, Defendants did provide Hardiman with objections to  
21 the request, and noted that despite the objections, Defendants will “provide a response that is  
22 reasonably related to the allegations in this case,” and that “[t]o the extent such documents exist,  
23 all responsive documents within Defendant’s possession, custody or control and to which no  
24 objection is being made will be produced under supplemental disclosures” and that “Defendants  
25 reserve the right to supplement this response.” **Exhibit C at 3:5-15.**

26 Hardiman seems to acknowledge he received these responses one day before the  
27 deadline to file a reply to his initial motion to compel, but neither sought an extension to  
28 file a reply nor choose to file one. *See* ECF No. 24 at 3:1-6. He has now brought the instant

1 motion to compel, which, as noted, again changes both the language and the date range for  
 2 what documents he seeks to have produced. *Compare Ex. B at 1:25-26* with ECF No. 24  
 3 at 1:25-27, 2:9-12. Defendants have scheduled a meet and confer phone conference for  
 4 Wednesday, April 2, 2025, for the purpose of discussing these discrepancies, which  
 5 Defendants hope will result in an agreement between the Parties as to what documents  
 6 Hardiman is seeking, and when those documents can be provided given the potential of  
 7 them being a high-volume amount of documents needing redaction. **Ex. A at 2-3, ¶¶ 6-10.**

### 8 **III. LEGAL STANDARD**

9 Courts have inherent powers to control their dockets, *see Ready Transp., Inc. v. AAR*  
 10 *Mfg, Inc.*, 627 F.3d 402, 404 (citations omitted), and to “achieve the orderly and expeditious  
 11 disposition of cases.” *Chambers v. NASCO, Inc.*, 501 U.S. 32, 43 (1991) “Such power is  
 12 indispensable to the court’s ability to enforce its orders, manage its docket, and regulate  
 13 insubordinate [] conduct. *Id.* (citing *Mazzeo v. Gibbons*, No. 2:08–cv01387–RLH–PAL, 2010  
 14 WL 3910072, at \*2 (D.Nev.2010)).

15 LR IA 6-1 discusses requests for extensions. The rule states “[a] motion or  
 16 stipulation to extend time must state the reasons for the extension requested and must  
 17 inform the court of all previous extensions of the subject deadline the court granted.”

### 18 **IV. ARGUMENT**

19 As noted above, Defendants have provided responses to Hardiman’s request for  
 20 production of documents. Hardiman believes additional documents are necessary to fully  
 21 comply with Request for Production No. 1 – but in seeking those documents, has provided  
 22 a different date range and different language than that contained in the actual discovery  
 23 request at issue. *Compare Ex. B at 1:25-26* with ECF. No. 24 at 1:25-27, 2:9-12.  
 24 Defendants acknowledge that their Response to Request to Produce No. 1 could have been  
 25 clearer—and should have also included an objection based on proportionality, but also note  
 26 that given the shifting language contained in Hardiman’s initial Request for Production  
 27 No. 1 (**Ex. B at 1:25-26**) the first motion to compel (ECF No. 21 at 1:24-26) and now the  
 28 second motion to compel (ECF No. 24 at 1:25-27, 2:9-12). The ambiguity and vagueness of

1 the request is clear given Hardiman's shifting language as to what logs, from where, and  
2 dates ranges used by Hardiman in the three documents above to identify the documents he  
3 is actually requesting.

4 Defendants have scheduled a meet and confer for Wednesday, April 2, 2025, to  
5 discuss Hardiman's concerns pertaining Request to Produce No. 1, as well as to seek  
6 clarification as to what precisely Hardiman is seeking given the changes in date range and  
7 language used in the Discovery Response (Ex. B at 1:25-26), the mooted Motion to Compel  
8 (ECF No. 21 at 1:24-26, and the instant Motion to Compel (ECF No. 24 at 1:25-27, 2:9-12).  
9 *See also Ex. A at 2, ¶¶ 5-6.*

10 In addition to this shifting nature of Hardiman's request, DAG Whipple, counsel of  
11 record, is currently on emergency leave. As a result, it is unclear at this point whether  
12 there is any continued disagreement between the Parties, and to the extent there is not,  
13 how much additional time will be needed to provide Hardiman with any additional  
14 responsive documents to the extent they may exist. Defendants anticipate that the meet  
15 and confer scheduled for Wednesday, April 2, 2025, will provide clarity on both of these  
16 points.

17 As noted above, this is the first request for an extension of time. In addition, given  
18 the discrepancies in the discovery request, the documents Hardiman seeks to compel in the  
19 current Motion to Compel, and DAG Whipple's current emergency leave, Defendants  
20 respectfully state that there is good cause for seeking this fourteen (14) day extension. In  
21 addition, there is no outstanding dispute regarding any other aspect of the discovery  
22 exchanged between the parties, and Defendants have provided Hardiman with over 297  
23 pages of discovery, as bates-labeled documents NDOC00001-NDOC00297 have been  
24 provided as part of initial disclosures, supplementary disclosures, and discovery. **Ex. D,**  
25 **Supplemental Initial Disclosures at 4:24-6:19.** Further, discovery is not set to close  
26 until April 27, 2025 and therefore there will be no prejudice to Hardiman as it pertains to  
27 this extension of time, as Hardiman will have until May 12, 2025 to file any discovery

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related motion that he believes may still be necessary following the meet and confer and production of any documents relevant to Request to Produce No. 1, ECF No. 6:11-20.

**V. CONCLUSION**

Defendants have responded to Hardiman's discovery requests and a meet and confer is scheduled for Wednesday, April 2, 2025, in an effort to seek clarification as to what documents Hardiman seeks, and under what terms and conditions they can be provided. As such, Defendants seek a 14-day extension to provide any further response necessary to Hardiman's instant motion, or for the parties to inform this Court as to whether a resolution has been agreed upon without the need for this Court to intervene further.

DATED this 31<sup>st</sup> day of March 2025.

AARON D. FORD  
Attorney General

By: /s/ D. Randall Gilmer  
D. RANDALL GILMER, Bar No. 14001  
Deputy Attorney General

*Attorneys for Defendants*

**IT IS SO ORDERED.**

DATED: March 31, 2025

  
UNITED STATES MAGISTRATE JUDGE